TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

HB 967 - SB 1081

March 11, 2015

SUMMARY OF BILL: Enacts the “Tennessee First Act.” Defines “Tennessee business” as a business that is a continuing, independent, for-profit business that performs a commercially useful function with residence in Tennessee. Requires the Central Procurement Officer (CPO) to promulgate rules authorizing an allowance for Tennessee businesses in the evaluation of bids and proposals for state contracts for goods and services. Except for public construction contracts and contracts with the Department of Transportation, whenever the lowest responsible and responsive bidder on a state contract for goods and services is a resident of another state that is contiguous to Tennessee and that allows a preference to a resident contractor of that state, then a like reciprocal preference is allowed to the lowest responsible and responsive bidder on the contract who is a Tennessee business. Prohibits such allowance from exceeding five percent of the lowest responsive, responsible bidder meeting specifications and would be applied as follows: five percent for contracts up to $1,000,000; four percent for contracts between $1,000,000 and $10,000,000; three percent for contracts between $10,000,000 and $25,000,000; two percent for contracts between $25,000,000 and $50,000,000; and one percent for contracts that exceed $50,000,000.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – $3,644,200/FY15-16
$7,288,500/FY16-17 and Subsequent Years

Assumptions:

- According to the 2011-12 survey conducted by the National Association of State Procurement Officials (NASPO), 25 states provide a legal preference for in-state bidders or products. Of the states contiguous to Tennessee, Kentucky, North Carolina, Georgia, Mississippi, and Missouri have reciprocal preference laws.
- According to the Department of General Services, Chief Procurement Office (CPO), the following data was pulled from Edison for contracts awarded from Invitations to Bid (ITB): out of 275 events 174 (or 63.3 %) had at least one Tennessee vendor participate in 2013 and out of 238 events 131 (or 55 %) had at least one Tennessee vendor participate. Request for Proposal (RFP) data is not available within Edison at this time. The CPO estimates that 50 percent of the current out-of-state contracts in states contiguous to Tennessee would be awarded to businesses residing in Tennessee, as a result of the proposed preferences.
- According to the CPO, in FY13-14, the state paid approximately $60,168,814 on contract payments to out-of-state vendors with contracts valued at less than or equal to

$1,000,000. Assuming a five percent preference allowance for in-state vendors and that 50 percent of the out-of-state contracts would now be awarded to a Tennessee vendor will result in a recurring increase in state expenditures of $1,504,220 ($60,168,814/2 x 5%).

- In FY13-14, the state paid approximately $53,393,873 on contract payments to out-of-state vendors with contacts valued between $1,000,000 and $10,000,000. Assuming a four percent preference allowance for in-state vendors and that 50 percent of the out-of-state contracts would now be awarded to a Tennessee vendor will result in a recurring increase in state expenditures of $1,067,877 ($53,393,873/2 x 4%).
- In FY13-14, the state paid approximately $53,837,808 on contract payments to out-of-state vendors with contacts valued between $10,000,000 and $25,000,000. Assuming a three percent preference allowance for in-state vendors and that 50 percent of the out-of-state contracts would now be awarded to a Tennessee vendor will result in a recurring increase in state expenditures of $807,567 ($53,837,808 /2 x 3%).
- In FY13-14, the state paid approximately $32,872,145 on contract payments to out-of-state vendors with contacts valued between $25,000,000 and $50,000,000. Assuming a two percent preference allowance for in-state vendors and that 50 percent of the out-of-state contracts would now be awarded to a Tennessee vendor will result in a recurring increase in state expenditures of $328,721 ($32,872,145/2 x 2%).
- In FY13-14, the state paid approximately $716,021,026 on contract payments to out-of-state vendors with contacts valued over $50,000,000. Assuming a one percent preference allowance for in-state vendors and that 50 percent of the out-of-state contracts would now be awarded to a Tennessee vendor will result in a recurring increase in state expenditures of $3,580,105 ($716,021,026 /2 x 1%).
- The total recurring increase in state expenditures as a result of mandatory preference allowances for Tennessee businesses is $7,288,490 ($1,504,220 + $1,067,877 + $807,567 + $328,721 + $3,580,105).
- Recurring expenditures for FY15-16 will be $3,644,245 ($7,288,490 x .50) to reflect costs for one-half of the fiscal year due to the effective date of January 1, 2016.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Jeffrey L. Spalding

Jeffrey L. Spalding, Executive Director

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